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TENTH ANNUAL REPORT OF THE SECRETARY OF THE BOARD OF EDUCATION.

[Continued from page 160.]

I now proceed to consider the important subject of
SCHOOL DISTRICTS.

25. These are formed by the town,—the voters in each district having no further power, in giving them shape or extent, than that which they possess as voters in the town. Rev. St. ch. 23, § 24.

A town has authority to alter the limits of all its school districts, or of any of them. 15 Pick. 35, *Allen v. Westport*; 4 Mass. 534, *Richards v. Daggett*.

Where districts exist, it is apparent that they must be invested with certain powers, by which they can perform their duties and protect their rights.

26. In Massachusetts, each school district is a body corporate. It can prosecute or defend, in any action relating to the property or affairs of the district. Rev. St. ch. 23, § 57.

27. It has power, as a corporation, to take and hold, in fee simple or otherwise, any estate, real or personal, which may be given to it, or purchased by it, for the support of a school or schools in the district. Rev. St. ch. 23, § 58.

Every school district must be organized,—that is, it must have a class of officers by whom its records can be made, kept, and authenticated, and who can execute its will legally expressed.

28. The selectmen of all towns, divided into school districts, and the prudential committees of all such districts, upon application made to them respectively, in writing, by three or more residents in any district, who pay taxes, must issue their warrant directed to one of the persons making such application, requiring him to warn the inhabitants of such district, who are qualified to vote in town affairs, to meet at such time and place in said district, as shall be expressed in the warrant. Rev. St. ch. 23, § 46.

29. The warning above described must be given seven days at least before the time appointed for the meeting, and it must be either by personal notice to every voter in the district, or by leaving at his last and usual place of abode a written notification, expressing therein the time, place, and purpose of the meeting. *Rev. St. ch. 23, § 47.*

30. After a district meeting has been once legally called, and the district organized, the voters may, at any regular meeting, having an article in the warrant for the purpose, prescribe the mode of warning all future meetings of the district. They may also direct by whom, and in what manner, such meetings shall be called. *Rev. St. ch. 23, § 48.*

It is a general principle that no business can be legally transacted in any meeting, of which due notice has not been given by the insertion of an article in the warrant, calling the same. *10 Pick. 543, Little v. Merrill.*

31. It is the first duty of the qualified voters, after having been legally warned, and having assembled, to choose a moderator. They must then choose a clerk. The clerk must be sworn to the faithful discharge of the duties of his office, by the moderator, in open meeting, or by a justice of the peace. When qualified by taking the oath of office, the clerk must make a fair record of all votes passed at the meeting, and certify the same when required. The clerk is to hold his office until another is chosen and sworn in his stead. *Rev. St. ch. 23, § 27.*

32. The clerk of a school district is liable only for a want of integrity on his part. Should the district pass any illegal vote for raising money by tax, the district is itself liable for the illegality of its proceedings; but if the clerk has certified truly, to the assessors of the town, the votes of the district, he is not liable. *Rev. St. ch. 23, § 29.*

33. In every school in the Commonwealth, containing fifty or more scholars, as the average number, the school district, or town to which such school belongs, must employ a female assistant or assistants, unless such school district or town shall, at a meeting regularly called for that purpose, vote to dispense with the same. *St. 1839, ch. 56, § 1.*

PRUDENTIAL COMMITTEES.

34. It is optional with the town, even after it has divided its territory into school districts, either to choose a prudential committee for the several districts belonging to the town, or to decide that each district shall choose its own. *Rev. St. ch. 23, §§ 25, 26.*

35. By whomsoever chosen, the prudential committee must be a resident of the district. *Ib.*

36. The prudential committee of a district may consist of one person, or of three. *Rev. St. ch. 23, § 25. St. 1839, ch. 137.*

If the town votes to choose the prudential committees, then the town will determine whether they shall consist of one or of three; if the town delegates this choice to the districts, then the districts will determine.

37. Primarily, it is the duty of the superintending school committee to select and contract with all the teachers for the district schools. But if any town so chooses, it may vote to transfer this duty from the superintending to the prudential committees. St. 1838, ch. 105, § 2.

There must be an article in the warrant for the above purpose, and it is supposed that the vote has validity only during the school year for which it is passed.

38. The duties of the prudential committee, by whomsoever chosen, are as follows:—

First. If the district owns a schoolhouse, he is to keep it in good repair, at the expense of the district. Rev. St. ch. 23, § 25. This does not require a previous vote of the district, directing or requiring the committee to put the house in proper order. If a window pane is broken; if a window blind loses a hinge or a fastening, or a door is without a latch, or the plastering has fallen from the walls, or the room needs whitewashing, or is tight and without a ventilator, or the seats need repairs to make them comfortable, or if the windows have neither blinds nor curtains;—in all these and similar cases, it is the duty of the prudential committee to repair the injury, or supply the defect. So in regard to chairs, shovel, tongs, andirons, brooms, mats, door-scrappers, sink, water-pail, dippers or tumblers, &c. &c. Emphatically, if the schoolhouse be without an appendage which modesty and decency require, and which may prevent unchaste thoughts and indecent exposures from maturing into an unchaste life, it is believed to be the immediate duty of the prudential committee to supply it.

Second. If the district owns no schoolhouse, then the prudential committee is to provide a suitable place in which the school may be kept. The place provided must be a "suitable" one; but whatever is incompatible with comfort, or injurious to health; whatever embarrasses the teacher in communicating knowledge, or retards the children in acquiring it, cannot be held "suitable" by any reasonable tribunal. The comprehensive expression of the law is, that the committee shall "provide all things necessary for the comfort of the scholars." 21 Pick. 199, *Medford v. Medford*.

For all the above mentioned purposes, the prudential committee has the whole credit of the district at his command. Their property is at his disposal. He must make these provisions, and the district must pay for them. They cannot prohibit him by any vote. He derives his power from the law, and the district cannot repeal a statute of the Commonwealth.

If an execution be obtained against the district, it may be

levied upon the property of any individual belonging to the district ; and this is so even if the district has corporate property liable to be taken. 6 Metcalf's Rep. 546, *Gaskill v. Dudley*.

For no one of the above purposes can the prudential committee take any part of the money raised by the town for the support of schools. They are charges upon the district, and the district must raise the money necessary to defray them.

It has often happened that the prudential committee has been seriously embarrassed for want of a small sum of ready money in his hands, to pay for trifling repairs. It is true, he may bind the whole property of the district by any contract he may make ; but to impose upon the district and the town all the trouble and expense incident to the levying and collecting of a small tax, is what a good citizen is reluctant to do, unless under circumstances admitting of no alternative. Formerly, and before the illegality of such a course was pointed out, it was customary for the prudential committees to abstract a portion of the money raised by the town for the support of schools, in order to defray these contingent expenses. But such a course is clearly without warrant, and may subject all parties concerned in it to legal animadversion. As the law now stands, the proper way to meet these petty contingencies is, for the district to vote a small sum, — ten, twenty, fifty, or more dollars, according to its circumstances and probable needs, to be placed in the hands of the prudential committee, and to be by him applied to defray this class of expenses, as they may arise, — he, of course, to be accountable to his successor, at the end of his official term, for any surplus remaining in his hands.

40. *Third.* The prudential committee is to provide fuel for the schools. The expense of fuel may be taken from the money appropriated by the town, St. 1846, ch. 223, § 2; or the district may raise money for this purpose by a tax. Rev. St. ch. 23, § 28.

41. *Fourth.* When an express vote of the town, passed for the then current year, has transferred the duty of selecting and contracting with teachers from the superintending to the prudential committee, the duty of making such selection devolves upon the latter. Rev. St. ch. 23, §§ 25, 28; St. 1839, ch. 105, § 2. But it is not legally possible for the prudential committee to make an absolute, unconditional contract with any person for keeping a school. He cannot appoint a *teacher*; he can only nominate a *candidate for teaching*. The person selected must be approved by the superintending committee, before he can legally commence the school. Such an approval ratifies the act of the prudential committee ; but the act, without such ratification, is void. Rev. St. ch. 23, § 14.

42. *Fifth.* The prudential committee must give such infor-

mation and assistance to the school committee of the town as may be necessary to aid them in the discharge of their duties. Rev. St. ch. 23, § 25. Under this specification of duty, the prudential committee is bound,—

1st. To cause the candidate to appear before the superintending committee, at such time and place as they may have appointed, for examination;—and the prudential committee should, if practicable, be present at the examination.

2d. To ascertain whatever, by diligent and careful inquiry, he can, respecting the moral character of the candidate he presents, his previous history and success as a teacher, if he has ever taught school before, and what means he has taken to qualify himself for teaching.

3d. To give the superintending committee due notice of the time when the school will begin and when it will close, so that they may visit it according to law.

4th. To give the superintending committee the earliest information of any danger, from any cause within their jurisdiction, which may impend over the school, and threaten to impair its usefulness.

The prudential committee and the superintending committee are different hands of the same body, and if they are not animated and moved by a common spirit, either one can defeat the most praiseworthy efforts of the other.

43. In all cases where, through neglect or other cause, no prudential committee shall be chosen for any school district, the superintending school committee must perform all the duties of the prudential committee. Rev. St. ch. 23, § 31. The rule would doubtless be the same, if a prudential committee should die, remove, or be otherwise disabled, or resign, and no successor should be appointed.

44. So, too, if any district should neglect or refuse to establish a school and provide a teacher for the same, it becomes the duty of the superintending committee to establish such school, and to provide a teacher therefor, as the prudential committee should have done. Rev. St. ch. 23, § 45. See also *post*, 104.

DISTRICT SCHOOLHOUSES.

45. If the town does not provide the schoolhouses, it is the duty of the districts respectively to do so. Rev. St. ch. 23, § 25.

46. The voters of any regularly constituted school district may raise money for erecting or repairing a schoolhouse, or for purchasing or hiring any building to be used as a schoolhouse, and land for the use and accommodation thereof. They may also raise money for purchasing fuel, furniture, and other necessary articles for the use of the school or schools. Rev. St. ch. 23, § 28.

47. The district may determine where their schoolhouse shall stand, and they may choose any committee to carry into effect any of the above named powers. Ib.

48. If the voters of a district cannot determine where to place their schoolhouse, the selectmen of the town to which the district belongs, upon application made to them by the committee appointed to build or to procure the schoolhouse, or by five or more of the legal voters of the district, shall determine where such schoolhouse shall be placed. Rev. St. ch. 23, § 30.

49. No town or district can obtain land, for the site of a schoolhouse, unless by purchase or gift. Although individuals and corporations are authorized to take land against the will of the owner, (paying him such sum as a jury shall award therefor,) for the use of mills, for turnpikes and railroads; yet, notwithstanding cases occur every year, where the desire of a district to erect a schoolhouse is defeated, because some taxpayer, owning a large tract of land in the centre of a district, refuses to sell any part of it for the purpose, no law exists authorizing the district to take it, at a fair appraisement.

50. It may happen that a majority of the voters in a district may be opposed to assessing upon themselves the requisite sums of money for any of the purposes for which a district is authorized to raise money. To prevent the evils which might follow, if, at any time, the district should fall under the power of perverse or avaricious men, it is provided that any five inhabitants of the district, who pay taxes, may make application in writing to the selectmen of the town, in which the school district is situated, requesting them to insert, in their next warrant for a town meeting, an article requiring the opinion of the town relative to the expediency of raising such moneys as were proposed in the warrant for the district meeting; and if the majority of the voters present in such town meeting shall think the raising of any of the sums of money, proposed in said warrant, to be necessary and expedient, they may vote such sum as they shall think necessary for the said purposes, and the same shall be assessed on the polls and estates of the inhabitants of such district, and be collected and paid over for the use of the district. Rev. St. ch. 23, § 44.

SCHOOL DISTRICT TAXES.

51. Whatever moneys a school district has legally voted to raise by tax, must be certified by the clerk of the district to the assessors of the town. Within thirty days after the receipt of the certificate, the assessors must assess the moneys so certified, in the same manner as town taxes are assessed, upon the polls and estates of the tax-payers in the district, and on all lands liable to be taxed therein. Rev. St. ch. 23, § 37.

52. Having made the assessment, the assessors must issue

their warrant, and direct it to one of the collectors of the town, requiring him to collect the tax so assessed, and to pay the same to the treasurer of the town, within a time to be limited in the warrant. A certificate of the assessment must also be made by the assessors, and delivered to the treasurer of the town. Rev. St. ch. 23, § 38.

53. This last provision, in relation to the certificate of the assessment to be delivered to the treasurer, is necessary, because, if the moneys are not collected and paid over to said treasurer at the time specified in the warrant, he is authorized to enforce their collection and payment in the same manner as in the case of moneys raised by the town for its own use. Rev. St. ch. 23, § 41.

54. Every collector has the same powers, in regard to the collection of a district tax; all assessors have the same power in regard to the abatement, in whole or in part, of the same; and the collector, assessors, and treasurer are respectively entitled to the same compensation for services performed in relation to a district tax, as for the like services in respect to town taxes. Rev. St. ch. 23, §§ 40, 42, 43.

55. In raising and assessing money, in the several school districts, every inhabitant of the district must be taxed, in the district in which he lives, for all his personal estate, (except as below; see 57,) and for all the real estate which he holds in the town, being under his own actual improvement; and all other of his real estate, in the same town, shall be taxed in the district in which it lies. Rev. St. ch. 23, § 33.

56. In the assessment of all taxes, pursuant to the preceding paragraph, all real estate and machinery, belonging to manufacturing corporations, must be taxed in the districts where the same are situated, (see below, 57;) and in assessing the shares in such corporation, for the like purposes, the value of said machinery and real estate shall be first deducted from the value of such shares. Rev. St. ch. 23, § 34.

57. All stocks in trade, including stock employed in the business of manufacturing, or of any of the mechanic arts, in towns within the State other than where the owners reside, must be taxed in those towns, if the owners hire or occupy manufactories, stores, shops, or wharves therein, whether the said stocks in trade, or the goods, wares, and merchandise, or other property composing the same, are within said towns, on the first day of May, of the year when the tax is made, or elsewhere. St. 1839, ch. 139, § 1.

58. Whenever the real estate of a non-resident owner shall be taxed to such owner, it may be taxed in such district as the assessors of the town shall determine; and the said assessors, before they assess a tax for any district, must determine in which district the lands of any such non-resident shall be taxed, and certify their determination to the clerk of the town,

who shall record the same ; and such land, while owned by any person, resident within the limits of the town, shall be taxed in such district accordingly, until the town shall be districted anew. *Rev. St. ch. 23, § 35.*

59. All the lands, within any town, owned by the same person, not living therein, must be taxed in the same district. *Rev. St. ch. 23, § 36.*

60. The moneys collected and paid over to the town treasurer, in the manner above described, for the use of any district, are then at the disposal of any committee appointed by the district, to be by them applied to the building or repairing of schoolhouses, or to the purchase of buildings to be used as schoolhouses, or to the purchase of land for the sites of schoolhouses, or to any other purpose for which the district may lawfully raise money, according to the votes or directions of the inhabitants of the same. *Rev. St. ch. 23, § 39.*

CONTIGUOUS SCHOOL DISTRICTS IN ADJOINING TOWNS.

61. In treating of the territorial division of the State for school purposes, it was mentioned, that any two or more contiguous school districts, in adjoining towns, may, with the consent of each district, and of the respective towns to which they belong, unite and form one district. *Ante, p. 147. Rev. St. ch. 23, § 49.*

62. But no districts can be so united unless the inhabitants of each, at a legal meeting called for the purpose, shall agree thereto ; nor unless the towns, to which such districts belong, shall, at legal town meetings, called for the purpose, assent to such union. When any such vote shall be passed by any school district, the clerk of the district must forthwith send a certified copy of the vote to the clerk of his town. *Rev. St. ch. 23, § 50.*

63. Whenever the voters of such united districts shall, at any legal meeting called for the purpose, deem it expedient to separate, and again resolve themselves into their original districts, they may do so, first obtaining the consent of their respective towns. *Rev. St. ch. 23, § 51.*

64. The first meeting of such united district shall be called in such manner as may be agreed upon by the respective districts, at the time of forming the union ; and the united district may, from time to time thereafter, prescribe the mode of calling and warning the meetings, in like manner as other school districts may do. *Rev. St. ch. 23, § 52.*

65. Such district, at its first meeting, and annually thereafter, must choose a prudential committee, who shall receive and expend the money, raised and appropriated in each town, for said united district, and shall possess all the powers, and discharge all the duties, allowed or prescribed to the prudential committees of other districts. *Rev. St. ch. 23, § 53.*

66. At the time of voting to raise any money by such united district, the voters must determine the amount to be paid by the inhabitants in each town, — which must be in proportion to their respective polls and estates ; and the clerk of the united district must certify such vote to the assessors of each of the towns to which the territory of the district belongs. Rev. St. ch. 23, § 54.

67. All moneys duly voted to be raised by any such united district shall be assessed, by the assessors of the respective towns, upon the polls and estates of the inhabitants of the district, and collected in the same manner that taxes are assessed and collected in other school districts. Rev. St. ch. 23, § 55.

68. The respective school committees of the towns, from which such united district is formed, must discharge the duties of school committee for the district, in alternate years, commencing with the most ancient town. Rev. St. ch. 23, § 56.

UNION SCHOOL DISTRICTS.

69. In speaking of the territorial division of the State for school purposes, the power of any two or more contiguous districts to unite for the purpose of forming a Union School district, and also the design, benefit, and preliminary conditions of such union, were mentioned. St. 1838, ch. 189, § 1. *Ante*, p. 147.

70. Every union district thus formed is a body corporate, possessing all the powers of other school districts in relation to prosecuting and defending suits at law, or holding real or personal property. Such a name may be given to such district as may be determined by itself at its first meeting. Ib. § 2.

71. The first meeting of such union district must be called in such manner, and at such time and place, as may be agreed upon by the several associated districts respectively, by a vote of the same, at the time of forming the union ; and the union district may, from time to time thereafter, prescribe the mode of calling and warning the meetings thereof, in like manner as other school districts may do, and may also determine at what time its annual meetings shall be held. Ib. § 3.

72. Such union district, at the first meeting thereof, must choose, by ballot, a clerk, who shall be sworn in the same manner, and shall perform the same duties, as are prescribed in relation to the clerks of other school districts, and shall hold his office until another shall be chosen in his stead. Ib. § 4.

73. Such union district, at any legal meeting called for that purpose, may raise money for erecting, purchasing, renting, or repairing any building to be used as a schoolhouse for the union school, and for purchasing or renting land for the use and accommodation thereof ; also, for purchasing fuel, furniture, and other necessary articles for the use of said school ; and in assessing and collecting a tax or taxes for the above

purposes, such proceedings must be had as are prescribed by law for other school districts. (See *ante*, p. 165-8.) The union district may also determine where its schoolhouse shall stand, and in case the location thereof be not determined by said district, the same must be referred to the selectmen of the town, in the same manner as is provided in the case of other districts. (See *ante*, p. 166.) A union district has power to choose any committee to carry its legally expressed purposes into effect. Ib. § 5.

74. The prudential committees of the respective districts forming the union district shall, together, constitute the prudential committee of the union district; and they have all the powers, and are bound to discharge all the duties, in relation to the school and schoolhouse of the union district, as are prescribed to other prudential committees in relation to the schools and schoolhouses of their respective districts. Ib. § 6.

75. The prudential committee of the union district must also determine the ages and qualifications of the children of the associated districts, who may attend the union school, and they must also determine what proportion of the money, raised and appropriated by the town for each of the districts composing the union district, shall be appropriated and expended in paying the instructor or instructors of the union school; subject, however, in both the above cases, and in all other matters relating to said school, to any votes of said union district that may be passed at any legal meeting thereof. But the schools in each of the associated districts must continue to be maintained, in the same manner as though no union district had been formed. Ib. § 7.

76. As the law allows any district to choose a prudential committee consisting of three persons, it is presumed, should any one of the united districts have such a committee, that, in voting, the three would have the power of giving but one vote.

77. The school committee of the town in which a union district may be located, are invested with the same powers, and must perform the same duties, in relation to such union school, as are prescribed to them in relation to district schools. Ib. § 8.

The course of proceedings has now been traced from the territorial division of the State into towns, and of towns into districts, to the raising and apportioning of money for the support of schools, and the erection, furnishing, and warming of the schoolhouses. We have now the districts, the houses, and the money for sustaining the schools. The provisions for supplying teachers and for superintending the schools remain to be mentioned. This leads to a consideration of the powers and the duties of

SCHOOL COMMITTEES.

78. The inhabitants of every town, at their annual meeting, must choose, *by written ballots*, a school committee, consisting of three, five, or seven persons. The powers to be exercised by this committee are expressed in the most general and comprehensive terms. They are to have "the general charge and superintendence of all the public schools in the town." Rev. St. ch. 23, § 10.

79. Any town containing more than four thousand inhabitants may choose an additional number, not exceeding six, on such committee. Ib. § 12.

80. Special provisions for cities, in regard to the number of the school committee they may choose, and the manner in which they shall be chosen, are contained in their respective charters.

81. For every day in which a member of this committee shall be actually employed in discharging the duties of his office, he is entitled to demand and receive one dollar from the town, and at the same rate for any part of a day. The city of Boston is specially excepted from the provision which entitles school committee men to compensation for their services. Any town may add to the legal compensation of the committees whatever sum they may choose. St. 1838, ch. 105, § 4.

82. The powers of the school committees are derived from the law, and their duties are enjoined by it. Their authority cannot be restricted, nor their compensation diminished, by any act of the town. The town chooses them; when chosen, the law governs them.

83. The first duty of a school committee, after being duly elected and organized, is to provide themselves with a record-book, in which all the votes, orders, and proceedings of the committee must be duly recorded. St. 1838, ch. 105, § 3.

84. If their predecessors in office had such a book, the committee are entitled to receive it from them. If they had not, the committee must supply themselves forthwith. The expense of such a book is a legal charge against the town. At the expiration of their term of office, the committee are bound to deliver this book to their successors. St. 1838, ch. 105, § 3.

85. If the territory of a town be not divided into school districts, it is the duty of the school committee to select and contract with all the teachers employed in the public schools. Rev. St. ch. 23, §§ 10, 24, 31.

86. If a town be divided into school districts, it is still the duty of the school committee to select and contract with all the teachers, unless the town, having an article in the warrant for the purpose, shall have expressly voted to transfer this duty from the school committee to the prudential committees. St.

1838, ch. 105, § 2. It is presumed that this vote, in order to be valid, must be annual.

87. When these preliminary conditions are performed, viz., the division of the town into districts; the choice of prudential committees for the districts,—whether by the town, or by the districts themselves,—and the express vote of the town that the teachers shall be selected and contracted with by said prudential committees, then it becomes the duty of said prudential committees to select the teachers and present them to the school committee for examination. Rev. St. ch. 23, §§ 24, 25, 26; St. 1838, ch. 105, § 2.

88. But in all cases, and by whomsoever these preliminary duties are performed, the school committee have the sole power of examining teachers, and of giving them a certificate of qualification. No person can legally enter any public school, in the capacity of a teacher, until he has received from the school committee a written certificate of his qualifications therefor. Rev. St. ch. 23, §§ 13, 14.

89. Whenever any school committee, being satisfied respecting the qualifications of a candidate, shall give a certificate, said certificate must be prepared, in duplicate, and one copy must be filed with the town treasurer, before any payment is made to the teacher on account of his services. Ib. § 14. Any moneys paid to any person by the town treasurer, on the ground of services performed as a teacher, without first receiving one of the duplicate certificates, which the committee are required to give, are paid by said treasurer without authority of law, and he will still remain liable to the town for the sum, as though no payment had been made. No reason is perceived why this liability should not continue during the legal existence of his bond,—that is, for twenty years after its date,—binding his heirs, and the sureties and their heirs during this term of time.

90. The power, then, of a prudential committee to select and contract with a teacher, extends no further, in any case, than to make an agreement, conditioned that, if the candidate for teaching the school shall be able to undergo a satisfactory examination before the school committee, and obtain a certificate of qualification from them, he may then commence the school. Ib. § 14. The power of the prudential committee, in regard to teachers, is only a power of nomination or presentation.

91. The law does not stop with requiring that schools shall be kept; it solicitously points out the qualifications of the teacher; and before any person can keep such a school as the law recognizes, he must submit himself to be examined by the school committee; and, in all cases, and at the very least, the committee must be satisfied of the existence of the follow-

ing qualifications in the candidate, before they give him their certificate of approval.

92. 1st. **MORAL QUALIFICATIONS.** The committee must be satisfied of the good moral character of a teacher. Ib. § 13. No talents however profound, no genius however splendid, no attainments however ample, can atone for any deficiency in moral character. In the beautiful language of the law, it is the "duty of the president, professors, and tutors of the university at Cambridge, and of the several colleges, and of all preceptors and teachers of academies, and all other instructors of youth, to exert their best endeavors to impress on the minds of children and youth, committed to their care and instruction, the principles of piety, justice, and a sacred regard to truth, love to their country, humanity, and universal benevolence, sobriety, industry, and frugality, chastity, moderation, and temperance, and those other virtues, which are the ornament of human society, and the basis upon which a republican constitution is founded ; and it shall be the duty of such instructors to endeavor to lead their pupils, as their ages and capacities will admit, into a clear understanding of the tendency of the above mentioned virtues to preserve and perfect a republican constitution, and secure the blessings of liberty, as well as to promote their future happiness, and also to point out to them the evil tendency of the opposite vices." Rev. St. ch. 23, § 7.

The school committee may be satisfied respecting the moral character of the candidate, by actual knowledge, derived from long personal acquaintance ; or, in the case of a stranger, they may have well authenticated testimonials of the fact. The committee should note, in their record book, all letters or certificates of recommendation exhibited by any candidate, whom they shall approve, with the names of their authors ; and, when practicable, the letters and certificates themselves should be put on the committees' files, so that their authors may be held to a rigid accountability for the truth of the credentials they have given. If, before the civil tribunals, a man is held to a strict pecuniary liability for accrediting an insolvent as a man in good mercantile standing, or for recommending a swindler as a man of integrity, how much more stringent ought the rule of a moral tribunal to be, when the dearest and most sacred interests of children are perilled by means of false testimonials of good character, whether knowingly or heedlessly given !

93. 2d. **LITERARY QUALIFICATIONS.** The committee must satisfy themselves, "by personal examination," of the "literary qualifications" of the candidates ; — that is, they must personally examine the candidates in all the branches they will be called upon to teach. Ib. § 13. Even for the lowest grade

of schools known to the law, the teacher must be competent to give instruction in orthography, reading, writing, English grammar, geography, and arithmetic. This is the minimum of literary qualification. It is lawful for districts to employ teachers who are competent to teach higher branches; or who are able to teach the required branches better, because they are masters of higher ones;— who, for instance, can teach reading better, because familiar with the principles of elocution and rhetoric, and with the etymology of words, from whatsoever language they may be derived;— who can teach writing better, because adepts in drawing;— who can teach English grammar better, because familiar, from the study of other languages, with the principles of universal grammar;— who can teach geography better, because acquainted with astronomy, geology, statistics, and civil and natural history;— and who can teach arithmetic better, because masters of the higher mathematics. So, too, a knowledge of Human Physiology may be required in a teacher, in order to secure the health of the children; because on health depends their ability to go to school at all, and much also of their ability to study when in school.

When the wealth of the town is sufficient to bear the expense, and the proficiency of the scholars in all the primary branches has prepared them to enter upon a higher course, the law will not only authorize a town to demand instruction in a more advanced course, but its true spirit will require the examining committee to reject a candidate who is not competent to carry the pupils through it. *Cushing v. Newburyport, ante,* p. 159, n.

94. 3d. **CAPACITY TO GOVERN.** The committee must also make special inquiry as to the capacity of each candidate for the government of a school. Rev. St. ch. 23, § 13. No ambiguous indications, on this point, will be given by the general air and manner of a candidate, the expression of the countenance, the tone of the voice, the firmness or fickleness legible in the eye, the self-esteem or the servility proclaimed by the natural language.

When a candidate has taught school before, and has succeeded in maintaining good order, without the use of improper means, or without the use of proper means to an improper extent, this fact is strong evidence in favor of a capacity for government. Especially is it so, if the general circumstances and condition of the schools are substantially alike.

Visiting a school in which a candidate may be engaged, and actually witnessing the manner in which he conducts it, is also a valuable means of ascertaining the same fact.

But it is supposed that neither nor all of the above methods can supersede an actual questioning of the candidate as to his

views of the principles on which a school should be conducted. It is of primary importance to know whether the fundamental idea of government, in his opinion, is the will of the teacher, or the applause of the neighborhood, — which may be for one quality in one place and for another quality in another, — or the good of the governed ; — whether, on the one hand, he would succumb to resistance and be driven away before rebellion, rather than to strike a blow ; or, on the other, whether he would flout the docile, and be capricious towards the obedient, to prove whether there exists in them an unreasoning and unconditional submission to his claim of sovereignty.

If a candidate has no views respecting the great principles on which the government of a school should proceed, the committee cannot affirm that he has a capacity to govern. If such a person has any capacity, it must be in a latent state ; but the committee must be satisfied, not of a possible or potential, but of an actual capacity ; it must be in a developed state.

Probably few provisions, if any, in the Statute book, have been more efficacious and serviceable in improving our schools, than the one which requires committees to examine teachers, — as a few considerations will abundantly show.

There are annually employed, in the Public Schools of Massachusetts, between five and six thousand different persons as teachers. I suppose it to be indisputable that no section of the Union, of equal population, supplies so large a proportion of young men for the professions, and for the various departments of educated labor, as New England ; and, among the New England States, Massachusetts, in this respect, is doubtless pre-eminent. The Public Schools of many towns, and the large number of highly respectable academies and private schools, carry forward a numerous body of young men and women to such a degree of literary attainment as enrolls them in the list of candidates for school keeping. Students in our colleges ; ambitious young men, who are looking forward to some other employment, actually more lucrative, and, in public estimation, more honorable, and who must obtain a little money as a means of securing their ultimate object ; many mechanics and farmers, possessed of more than ordinary intelligence and attainment, and who were renowned, when they went to school, for doing all the "hard sums" in the arithmetical text books ; — all these have been candidates for public school keeping. Added to this, the average rate of compensation given to teachers in Massachusetts, has far exceeded that which has been given in any of the neighboring States. Hence, in the autumn of the year, hosts of adventurers flock hither, from Maine, from New Hampshire, from Vermont, and from Connecticut, in quest of employment as teachers in our schools. Some of these are full, not only of enterprise, but of talent ; but, under such circumstances, it would be strange indeed, if among the fine gold there should not be found something of

dross. All these are competitors for our Public Schools. They often exhibit recommendations of a highly imaginative character,—recommendations which prove the good will of their signers, far more than their good sense or their trustworthiness; for it is well known that the facility with which such recommendations can be obtained is the scandal of our people. What barrier, then, but the vigilance and intelligence of our school committees, shall prevent our schools from being invaded by practical immorality, by literary imposture, and by an inaptitude for all government except the government of fear and force? What but the fidelity of school committees shall prevent sound knowledge and high talent from being thrust aside by ignorance and pretension? The interests of all good teachers, emphatically the interests of the rising generation, demand, by every consideration that can appeal to patriotism, to philanthropy, or to the sense of religious obligation, that the legal duty of examining teachers should be performed without fear, or favor, or exception. It has happened, a thousand times, that prosperity or adversity has shone or frowned upon the schools of a town,—like sunshine or frost upon the early flowers of spring,—as it has been blest or cursed with a faithful or neglectful school committee.

Yet it cannot be denied that, for every public consideration demanding a thorough examination of teachers, there is a selfish one which resists it. Individuals in a district or a town, who, in their own minds, have appropriated to themselves the ensuing term of the schools, may, by management or collusion, secure the choice of a committee, who, either through inability or favoritism, will make the examination only a polite and facile ceremony of introduction into the school; or,—what has not unfrequently happened,—the expectants will secure the choice of a prudential committee who will open to them the door of the schoolhouse without any examination at all. Sometimes it is not difficult for a person, through his relatives and friends, to create an apparent public opinion in a district, which shall seem to demand, that the individual shall be selected to keep the school who has himself been the fraudulent author of the factitious opinion that points to him. All persons, too, who are intending to obtain a school, but who are fearful of the results of an examination, will, of course, be opposed to the principle of the law which requires an examination, and will therefore be ready to aid those who strive to evade it.

[To be continued.]

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